

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EAGLE WEST INSURANCE  
COMPANY, a California Corporation,

Plaintiff,

v.

CONTINENTAL CASUALTY COMPANY,  
an Illinois corporation; and THE  
CONTINENTAL INSURANCE  
COMPANY, a New York corporation,

Defendants.

Case No. C22-1226RSM

ORDER DENYING MOTION FOR  
RECONSIDERATION

This matter comes before the Court on Plaintiff Eagle West Insurance Company's Motion for Reconsideration. Dkt. #35. The parties here are insurance companies. Plaintiff filed this action seeking a declaration of the parties' coverage obligations with respect to an underlying lawsuit where there was a settlement. On April 14, 2023, the parties filed motions for summary judgment. The Court heard oral argument on September 12, 2023. On September 26, 2023, the Court granted Defendants' Motion for Summary Judgment and dismissed this case. Dkt. #34. The Court found that Plaintiff's request for contribution from Defendants could not be granted because the underlying settlement had an unallocated "black box" sum

1 and that Plaintiff could not now ask the Court to allocate a portion of the sum attributable to  
2 Defendants' insured, a property manager named Thrive.

3 The instant Motion was filed fourteen days later. Plaintiff's Motion repeats the above  
4 findings but argues that they do not support the Court's conclusion. Plaintiff cites to *Valley Ins.*  
5 *Co. v. Wellington Cheswick, LLC*, 2006 U.S. Dist. LEXIS 81049 (W.D. Wash. 2006) as an  
6 analogous case. Dkt. #35 at 2. Plaintiff contends that the Court should have determined the  
7 reasonable allocations that could have been made by the parties because there is a reasonable  
8 basis to do so. *Id.* Plaintiff argues that it offered such a reasonable basis for a 50/50 split  
9 between the property owner Kami and the property manager Thrive at oral argument. Plaintiff  
10 maintains that "the Court erred in placing the burden on Eagle West to allocate what portion of  
11 the \$2.87 million settlement was allocable to Thrive." *Id.* at 5. Plaintiff also requests that the  
12 Court determine priority of coverage and consider equitable contribution. *Id.*

15 "Motions for reconsideration are disfavored." LCR 7(h)(1). "The court will ordinarily  
16 deny such motions in the absence of a showing of manifest error in the prior ruling or a  
17 showing of new facts or legal authority which could not have been brought to its attention  
18 earlier with reasonable diligence." *Id.* "The motion shall point out with specificity the matters  
19 which the movant believes were overlooked or misapprehended by the court, any new matters  
20 being brought to the court's attention for the first time, and the particular modifications being  
21 sought in the court's prior ruling." LCR 7(h)(2).

24 Plaintiff's Motion repeats previously presented arguments and cites to previous cases to  
25 make some of the same arguments considered and rejected by the Court. Plaintiff fails to point  
26 to manifest error or present new facts or legal authority which could not have been brought to  
27 the Court's attention earlier with reasonable diligence. It was not manifest error to place the  
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1 burden on Plaintiff to allocate the settlement under these facts because it was the settling party  
2 for a lump sum payment. *See Litho Color, Inc. v. Pac. Emps. Ins. Co.*, 98 Wash. App. 286,  
3 296, 991 P.2d 638 (1999) (citing *Mills v. Department of Labor and Industries*, 72 Wash. App.  
4 575, 577-78, 865 P.2d 41 (1994), *review denied*, 124 Wn.2d 1008, 879 P.2d 292 (1994). The  
5 Court correctly found that there was no reasonable basis for the Court to allocate between  
6 settling defendants in the underlying case. Accordingly, this Motion is properly denied.  
7 Plaintiff has failed to demonstrate that the Court otherwise erred in not granting equitable  
8 contribution. *Valley Ins. Co. v. Wellington Cheswick, LLC, supra*, is insufficiently analogous  
9 as that case involved contribution for defense costs, not indemnification. The rule for  
10 indemnity claims is different, as an insurer seeking contribution must prove that it actually paid  
11 costs for a common insured. *See Valley Ins. Co. v. Wellington Cheswick, LLC*, No. C05-  
12 1886RSM, 2007 WL 419321, at \*5 (W.D. Wash. Jan. 31, 2007). The Court concludes there is  
13 no other basis to reconsider its prior ruling.

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16 Having reviewed the relevant briefing and the remainder of the record, the Court hereby  
17 finds and ORDERS that Plaintiff Eagle West Insurance Company's Motion for  
18 Reconsideration, Dkt. #35, is DENIED. This case remains closed.

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20 DATED this 30<sup>th</sup> day of November, 2023.

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24 RICARDO S. MARTINEZ  
25 UNITED STATES DISTRICT JUDGE  
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